

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JASON C. MARTINEZ,

Plaintiff,

v.

No. 17-CV-00606-JCH-WPL

GUADALUPE COUNTY CORRECTIONAL
FACILITY, CORIZON MEDICAL
RESOURCES, GEO GROUP, INC.,
JOHN AND/OR JANE DOES,

Defendants.

**ORDER GRANTING LEAVE TO PROCEED
PURSUANT TO 28 U.S.C. § 1915(b)
AND TO MAKE PAYMENTS OR SHOW CAUSE**

This matter is before the Court on Plaintiff Jason C. Martinez's Application To Proceed In District Court Without Prepaying Fees or Costs, filed on June 20, 2017. [Doc. 4] Based on the financial information provided by Plaintiff, the Court finds that Plaintiff is unable to prepay the \$350.00 filing fee¹ in this civil rights action and, therefore, Plaintiff's Motion will be granted.

Because Plaintiff was a prisoner at the time his Prisoner's Civil Rights Complaint was filed, he is "required to pay the full amount of [the] filing fee." § 1915(b)(1). Pursuant to § 1915(b)(1), Plaintiff is required to make an initial partial payment of "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint" § 1915(b)(1). After payment of the initial partial payment, Plaintiff is "required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." § 1915(b)(2).

¹ See 28 U.S.C. § 1914 (a) ("The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal, or otherwise, to pay a filing fee of \$350 . . .").

Plaintiff's inmate account statement reflects that the average monthly balance in his inmate account exceeds his average monthly deposits. [See Doc. 4] Because Plaintiff had an average monthly balance of \$241.18, the Court will assess an initial partial payment of \$48.24 (which is 20% of \$241.18) pursuant to § 1915(b)(1)(B). The initial partial payment must be submitted to the Clerk of the Court within thirty days of the date of entry of this order.

The Court will not review the merits of Plaintiff's Prisoner's Civil Rights Complaint unless the initial partial payment is paid or excused. If Plaintiff fails to make a payment by the designated deadline or show cause why such payments should be excused, his Prisoner's Civil Rights Complaint may be dismissed without prejudice without further notice.

IT IS THEREFORE ORDERED that Application To Proceed In District Court Without Prepaying Fees or Costs [Doc. 4] is GRANTED;

IT IS FURTHER ORDERED that, within thirty (30) days from entry of this order, Plaintiff shall send to the Clerk of the Court an initial partial payment of \$48.24 or show cause why the payment should be excused;

IT IS FURTHER ORDERED that the Clerk is directed to provide Plaintiff with two copies of this order, and that Plaintiff make the necessary arrangements to attach one copy of this order to the check in the amount of the initial partial payment;

IT IS FINALLY ORDERED that, after payment of the initial partial fee, Plaintiff make monthly payments of twenty per cent (20%) of the preceding month's income credited to his account or show cause why the designated payments should be excused.


UNITED STATES MAGISTRATE JUDGE